

**SUBSTITUTE FOR  
HOUSE BILL NO. 4644**

A bill to adopt the uniform power of attorney act; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

ARTICLE 1

GENERAL PROVISIONS

Sec. 101. This act may be cited as the "uniform power of attorney act".

Sec. 102. As used in this act:

(a) "Actual knowledge" means knowledge in fact.

(b) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. Agent includes an original agent, a coagent, a successor agent, and a person to whom an agent's

1 authority is delegated.

2 (c) "Court" includes that term as defined in section 1103 of  
3 the estates and protected individuals code, 1998 PA 386, MCL  
4 700.1103.

5 (d) "Durable", with respect to a power of attorney, means not  
6 terminated by the principal's incapacity.

7 (e) "Electronic" means relating to technology having  
8 electrical, digital, magnetic, wireless, optical, electromagnetic,  
9 or similar capabilities.

10 (f) "Entity" means a person other than an individual.

11 (g) "General power of appointment" means general power as that  
12 term is defined in section 2 of the powers of appointment act of  
13 1967, 1967 PA 224, MCL 556.112.

14 (h) "Good faith" means honesty in fact.

15 (i) "Incapacity" means inability of an individual to manage  
16 property or business affairs for either of the following reasons:

17 (i) The individual has an impairment in the ability to receive  
18 and evaluate information or make or communicate decisions even with  
19 the use of technological assistance.

20 (ii) The individual is any of the following:

21 (A) Missing.

22 (B) Detained, including incarcerated in a penal system.

23 (C) Outside the United States and unable to return.

24 (j) "Person" means an individual or corporation, including a  
25 fiduciary of an estate or trust, a business trust, partnership,  
26 limited liability company, association, joint venture, public  
27 corporation, government or governmental subdivision, agency, or  
28 instrumentality, or any other legal or commercial entity.

29 (k) Unless the context requires otherwise, "power" means a

1 power of attorney.

2 (l) "Power of attorney" means a written record that grants  
3 authority to an agent to act in 1 or more matters on behalf of the  
4 principal, whether or not the term power of attorney is used.

5 (m) "Presented for acceptance", with respect to a power of  
6 attorney, means that both of the following events have occurred:

7 (i) A person other than the principal or an agent under the  
8 power in question has been asked by the principal or an agent under  
9 the power to take a specified action or actions in reliance on the  
10 power.

11 (ii) The power of attorney itself or a copy of it has been  
12 presented to and received by the person that is asked to take  
13 action in reliance on the power as described in subparagraph (i).

14 (n) "Presently exercisable", with respect to a power of  
15 appointment, means that the power of appointment is exercisable by  
16 the appointee at the relevant time. A power of appointment that is  
17 not exercisable until the occurrence of a specified event, the  
18 satisfaction of an ascertainable standard, or the passage of a  
19 specified period is presently exercisable only after the occurrence  
20 of the specified event, the satisfaction of the ascertainable  
21 standard, or the passage of the specified period. A power that is  
22 exercisable only by will is not presently exercisable.

23 (o) "Principal" means an individual who grants authority to an  
24 agent in a power of attorney.

25 (p) "Property" means anything that may be the subject of  
26 ownership, whether real or personal, or legal or equitable, or any  
27 interest or right in such a thing.

28 (q) "Record" means information that is inscribed on a tangible  
29 medium or that is stored in an electronic or other medium and is

1 retrievable in perceivable form.

2 (r) "Sign" means to do either of the following with the intent  
3 to authenticate or adopt a record:

4 (i) Execute or adopt a tangible symbol.

5 (ii) Attach to or logically associate with the record an  
6 electronic sound, symbol, or process.

7 (s) "State" means a state of the United States, the District  
8 of Columbia, Puerto Rico, the United States Virgin Islands, or any  
9 territory or insular possession subject to the jurisdiction of the  
10 United States.

11 (t) "Stocks and bonds" means stocks, bonds, mutual funds, and  
12 all other types of securities and financial instruments, whether  
13 held directly, indirectly, or in any other manner. Stocks and bonds  
14 does not include commodity futures contracts or call or put options  
15 on stocks or stock indexes.

16 Sec. 102a. (1) Except as otherwise provided in this section, a  
17 person has knowledge of a fact involving a power of attorney if 1  
18 or more of the following are true:

19 (a) The person has actual knowledge of the fact.

20 (b) The person has received a notice or notification of the  
21 fact.

22 (c) From all the facts and circumstances known to the person  
23 at the time in question, the person has reason to know the fact.

24 (2) An entity that conducts activities through 1 or more  
25 employees has notice or knowledge of a fact involving a power of  
26 attorney, a principal, or an agent only from the time the  
27 information is received by an employee conducting a transaction or  
28 from the time the information would have been brought to the  
29 employee's attention if the entity had exercised reasonable

1 diligence.

2 (3) An entity that conducts activities through 1 or more  
3 employees has actual knowledge of a fact relating to a power of  
4 attorney, a principal, or an agent only if the employee conducting  
5 the transaction has actual knowledge of the fact.

6 (4) As used in this section:

7 (a) "Reasonable diligence" means the maintenance of and  
8 reasonable compliance with reasonable routines for communicating  
9 significant information to the employee conducting the transaction.  
10 Reasonable diligence does not require an employee of the entity to  
11 communicate information unless the communication is part of the  
12 individual's regular duties or the individual knows a matter  
13 concerning the transaction would be materially affected by the  
14 information.

15 (b) "Transaction" means a transaction that is conducted for  
16 the entity and that involves the power of attorney.

17 Sec. 103. This act applies to all powers of attorney except  
18 the following:

19 (a) A power to the extent it is coupled with an interest in  
20 the subject of the power, including a power given to or for the  
21 benefit of a creditor in connection with a credit transaction.

22 (b) A patient advocate designation under section 5506 of the  
23 estates and protected individuals code, 1998 PA 386, MCL 700.5506.

24 (c) A delegation of a parent's or guardian's power regarding  
25 care, custody, or property of a minor child or ward under section  
26 5103 of the estates and protected individuals code, 1998 PA 386,  
27 MCL 700.5103.

28 (d) A proxy or other delegation to exercise voting rights or  
29 management rights with respect to an entity.

1 (e) A power created on a form prescribed by a government or  
2 governmental subdivision, agency, or instrumentality for a  
3 governmental purpose.

4 Sec. 104. A power of attorney created on or after the  
5 effective date of this act that is executed in accordance with  
6 section 105(2) or (3) is durable unless it expressly provides that  
7 it is terminated by the incapacity of the principal. A power of  
8 attorney created on or after the effective date of this act that is  
9 not executed in accordance with section 105(2) or (3) is not  
10 durable.

11 Sec. 105. (1) To be effective, a power of attorney created on  
12 or after the effective date of this act must be signed by 1 of the  
13 following individuals:

14 (a) The principal.

15 (b) If signed in the principal's conscious presence, another  
16 individual directed by the principal to sign the principal's name.

17 (2) To be durable, a power of attorney signed under subsection  
18 (1)(a) must meet 1 of the following requirements:

19 (a) Be acknowledged by the principal before a notary public or  
20 other individual authorized to take acknowledgments.

21 (b) Be signed in the presence of 2 witnesses, both of whom  
22 also sign the power, subject to both of the following:

23 (i) A witness may not be an agent nominated in the power.

24 (ii) One of the witnesses may be an individual who also acts,  
25 in the principal's execution of the power, as a notary public or  
26 other individual authorized to take acknowledgments.

27 (3) To be durable, a power of attorney signed under subsection  
28 (1)(b) must be signed in the presence of 2 witnesses as described  
29 in subsection (2)(b), regardless of whether the power is

1 acknowledged.

2 (4) A signature on a power of attorney is presumed to be  
3 genuine if the principal acknowledges the signature before a notary  
4 public or other individual authorized by law to take  
5 acknowledgments.

6 (5) A signature on a power of attorney that is witnessed as  
7 described in subsection (2) (b) but is not acknowledged by the  
8 principal before a notary public or other individual authorized by  
9 law to take acknowledgments is not entitled to the presumption of  
10 genuineness under subsection (4), and the power is not acknowledged  
11 within the meaning of sections 119 and 120.

12 Sec. 106. (1) A power of attorney executed in this state is  
13 valid in this state if, when the power was executed, the execution  
14 complied with the requirements for the execution of a power of  
15 attorney under the law of this state as it existed at that time.

16 (2) A power of attorney that is not executed in this state is  
17 valid in this state if, when the power was executed, the execution  
18 complied with either of the following:

19 (a) The requirements for the execution of a power of attorney  
20 under the law of the jurisdiction that determines the meaning and  
21 effect of the power under section 107 or under the law of the  
22 jurisdiction in which the principal was domiciled at the time of  
23 execution.

24 (b) The requirements for a military power of attorney under 10  
25 USC 1044b.

26 (3) Except as otherwise provided in the power of attorney or  
27 by statute other than this act, a photocopy or electronically  
28 transmitted copy of an original power of attorney has the same  
29 effect as the original.

1           Sec. 107. The meaning and effect of a power of attorney is  
2 determined by the law of the jurisdiction indicated in the power  
3 and, in the absence of an indication of jurisdiction, by the law of  
4 the jurisdiction in which the power was executed.

5           Sec. 108. (1) In a power of attorney, a principal may nominate  
6 a conservator or guardian of the principal's estate or guardian of  
7 the principal's person for a protective proceeding if a protective  
8 proceeding for the principal's estate or person commences after the  
9 principal executes the power. If consistent with applicable law on  
10 priority and suitability, the court shall make its appointment in  
11 accordance with the principal's most recent nomination in a power  
12 of attorney.

13           (2) If, after a principal executes a power of attorney, a  
14 court appoints a conservator or guardian of the principal's estate  
15 or other fiduciary charged with the management of some or all of  
16 the principal's property, both of the following apply:

17           (a) The agent is accountable to the fiduciary as well as to  
18 the principal.

19           (b) The power of attorney is not terminated, and the agent's  
20 authority continues unless limited, suspended, or terminated by the  
21 court.

22           Sec. 109. (1) A power of attorney is effective when executed  
23 unless the principal provides in the power that it becomes  
24 effective at a specified future date or on the occurrence of a  
25 specified future event or contingency.

26           (2) If a power of attorney is intended to become effective on  
27 the occurrence of a specified future event or contingency, the  
28 principal may, in the power, authorize 1 or more persons to  
29 determine in a record that the event or contingency has occurred.



1           (3) If a power of attorney is intended to become effective on  
2 the principal's incapacity and the principal has not authorized a  
3 person to determine whether the principal is incapacitated, or the  
4 person authorized is unable or unwilling to make the determination,  
5 the power becomes effective on a determination in a record by  
6 either of the following:

7           (a) A physician or licensed psychologist that the principal is  
8 incapacitated within the meaning of section 102(i) (i) .

9           (b) An attorney at law, a judge, or an appropriate  
10 governmental official that the principal is incapacitated within  
11 the meaning of section 102(i) (ii) .

12           (4) A person authorized by the principal in the power of  
13 attorney to determine that the principal is incapacitated may, to  
14 the extent necessary or convenient in making that determination,  
15 act as the principal's personal representative under the health  
16 insurance portability and accountability act of 1996, Public Law  
17 104-191, sections 1171 to 1179 of the social security act, 42 USC  
18 1320d to 1320d-8, and applicable regulations, to obtain access to  
19 the principal's health care information and communicate with the  
20 principal's health care provider.

21           Sec. 110. (1) A power of attorney terminates if any of the  
22 following occur:

23           (a) The principal dies.

24           (b) For a power of attorney that is not durable, the principal  
25 becomes incapacitated.

26           (c) The principal revokes the power of attorney.

27           (d) An event occurs that, according to the terms of the power  
28 of attorney, terminates the power.

29           (e) For a power of attorney that is intended only for a

1 specified, limited purpose, the specified purpose of the power is  
2 accomplished.

3 (f) The principal revokes the agent's authority or the agent  
4 dies, becomes incapacitated, or resigns, and the power of attorney  
5 does not provide for another agent to act under the power.

6 (2) An agent's authority terminates if any of the following  
7 occur:

8 (a) The principal revokes the authority.

9 (b) The agent dies, becomes incapacitated, or resigns.

10 (c) An action is filed for the dissolution or annulment of the  
11 agent's marriage to the principal or for the legal separation of  
12 the agent and the principal, unless the power of attorney provides  
13 otherwise.

14 (d) The power of attorney terminates.

15 (3) Unless the power of attorney provides otherwise, an  
16 agent's authority is exercisable until the authority terminates  
17 under subsection (2), notwithstanding any lapse of time since the  
18 execution of the power.

19 (4) Termination of an agent's authority or of a power of  
20 attorney is not effective as to the agent or another person that,  
21 without actual knowledge of the termination, acts in good faith  
22 under or in reliance upon the power. An act so performed, unless  
23 otherwise invalid or unenforceable, binds the principal and the  
24 principal's successors in interest.

25 (5) Incapacity of the principal of a power of attorney that is  
26 not durable does not revoke or terminate the power as to an agent  
27 or other person that, without actual knowledge of the incapacity,  
28 acts in good faith under or in reliance on the power. An act so  
29 performed, unless otherwise invalid or unenforceable, binds the

1 principal and the principal's successors in interest.

2 (6) The execution of a power of attorney does not revoke a  
3 power of attorney previously executed by the principal unless the  
4 subsequent power provides that the previous power is revoked or  
5 that all other powers of attorney are revoked.

6 Sec. 111. (1) A principal may designate 2 or more persons to  
7 act as coagents. Unless the power of attorney otherwise provides,  
8 each coagent may exercise the authority granted in the power  
9 independently.

10 (2) A principal may designate 1 or more successor agents to  
11 act if an agent resigns, dies, becomes incapacitated, is not  
12 qualified to serve, or declines to serve. A principal may grant  
13 authority to designate 1 or more successor agents to an agent or  
14 other person designated by name, office, or function. Unless the  
15 power of attorney otherwise provides, a successor agent has the  
16 same authority as that granted to the original agent and shall not  
17 act until all of the successor agent's predecessors under the terms  
18 of the power of attorney have resigned, died, become incapacitated,  
19 are no longer qualified to serve, or have declined to serve.

20 (3) Except to the extent the power provides that coagents and  
21 successor agents are liable for one another's misconduct, an agent  
22 under a given power of attorney who does not participate in or  
23 conceal a breach of fiduciary duty committed by another agent who  
24 is or was serving under that power, including a predecessor agent  
25 under the power, is liable for the actions of the other agent only  
26 as provided in subsection (4).

27 (4) An agent serving under a given power of attorney that has  
28 knowledge of a breach or imminent breach of fiduciary duty by  
29 another agent who is or was serving under that power, including a

1 predecessor agent under the power, shall notify the principal and,  
2 if the principal is incapacitated, take any action reasonably  
3 appropriate in the circumstances to safeguard the principal's best  
4 interest. An agent that fails to notify the principal or take  
5 action as required by this subsection is liable for the reasonably  
6 foreseeable damages that could have been avoided if the agent had  
7 notified the principal or taken such action.

8 Sec. 112. Unless the power of attorney provides otherwise, an  
9 agent is entitled to both of the following:

10 (a) Reimbursement of expenses reasonably incurred on behalf of  
11 the principal.

12 (b) Reasonable compensation for services rendered on behalf of  
13 the principal.

14 Sec. 113. (1) Except as otherwise provided in the power of  
15 attorney, a person accepts appointment as an agent under a power of  
16 attorney by exercising authority as an agent or by any other  
17 assertion or conduct indicating acceptance.

18 (2) Before exercising authority under a durable power of  
19 attorney, an agent shall execute an acknowledgment of the agent's  
20 duties that contains all the substantive statements contained in  
21 the optional template "Agent's Acknowledgment" provided in section  
22 302 in substantially the form of that optional template.

23 (3) An agent's failure to comply with subsection (2) does not  
24 affect the agent's authority to act for the principal as provided  
25 in the durable power of attorney or this act, does not alter the  
26 agent's duties under the power and this act, and does not mitigate  
27 the agent's potential liability for breach of those duties.

28 Sec. 114. (1) Notwithstanding provisions to the contrary in  
29 the power of attorney, an agent that has accepted appointment shall

1 do all of the following:

2 (a) Act in accordance with reasonable expectations of the  
3 principal that are actually known to the agent and, to the extent  
4 the expectations are not actually known, act in the principal's  
5 best interest.

6 (b) Act in good faith.

7 (c) Act only within the scope of authority granted by the  
8 principal.

9 (d) Keep reasonable records of receipts, disbursements, and  
10 transactions made by the agent on behalf of the principal.

11 (2) Except as otherwise provided in the power of attorney, an  
12 agent who has accepted appointment shall do all of the following:

13 (a) Act loyally for the principal's benefit.

14 (b) Act so as not to create a conflict of interest that  
15 impairs the agent's ability to act impartially in the principal's  
16 best interest.

17 (c) Act with the care, competence, and diligence that a  
18 prudent person would in dealing with the property of another.

19 (d) Cooperate with a person that has authority to make health  
20 care decisions for the principal to carry out reasonable  
21 expectations of the principal concerning health care that are  
22 actually known to the agent and, to the extent the expectations are  
23 not actually known, to act in the principal's best interest.

24 (e) Attempt to preserve the principal's estate plan to the  
25 extent that plan is actually known to the agent and preserving the  
26 plan is consistent with the principal's best interest based on  
27 relevant factors including all of the following:

28 (i) The value and nature of the principal's property.

29 (ii) The principal's foreseeable obligations and need for

1 maintenance.

2 (iii) The desirability of minimizing taxes, including income,  
3 estate, inheritance, generation-skipping transfer, and gift taxes.

4 (iv) Eligibility for a benefit, a program, or assistance under  
5 a statute or regulation.

6 (3) An agent who acts in good faith is not liable to any  
7 beneficiary of the principal's estate plan for failure to preserve  
8 the plan.

9 (4) An agent who acts for the best interest of the principal  
10 with the care, competence, and diligence that a prudent person  
11 would in dealing with the property of another is not liable solely  
12 because the agent also benefits from the act or has an individual  
13 or conflicting interest in relation to the property or affairs of  
14 the principal.

15 (5) If an agent is selected by the principal because of  
16 special skills or expertise possessed by the agent or in reliance  
17 on the agent's representation that the agent has special skills or  
18 expertise, the special skills or expertise must be considered in  
19 determining whether the agent has acted with care, competence, and  
20 diligence.

21 (6) A decline in the value of the principal's property is not  
22 in itself sufficient to establish a breach of fiduciary duty.

23 (7) An agent serving under a power of attorney that does not  
24 have knowledge of a breach or imminent breach of fiduciary duty by  
25 another agent who is or was serving under that power does not have  
26 a duty to investigate the conduct of any coagent or predecessor  
27 agent to rule out the possibility of any breach.

28 (8) An agent who exercises authority to delegate to another  
29 person the authority granted by the principal or who engages

1 another person on behalf of the principal is not liable for an act,  
2 error of judgment, or default of the person if the agent exercises  
3 care, competence, and diligence in selecting and monitoring the  
4 person.

5 (9) Except as otherwise provided in the power of attorney, an  
6 agent is not required to disclose receipts, disbursements, or  
7 transactions conducted on behalf of the principal unless ordered by  
8 a court or requested by the principal, a guardian, a conservator,  
9 another fiduciary acting for the principal, or adult protective  
10 services, or, on the death of the principal, by the personal  
11 representative or successor in interest of the principal's estate.  
12 If a person that is authorized by the power of attorney or by this  
13 subsection to request a disclosure described in this subsection  
14 makes a request, the agent shall comply with the request within 30  
15 days or provide a record substantiating why additional time is  
16 needed. If additional time is needed, the agent shall comply with  
17 the request within an additional 30 days.

18 Sec. 115. (1) A provision in a power of attorney relieving an  
19 agent of liability for breach of duty is binding on the principal  
20 and the principal's successors in interest except to the extent  
21 either of the following applies:

22 (a) The provision relieves the agent of liability for breach  
23 of duty committed in bad faith or, except as provided in subsection  
24 (2), with reckless indifference to the purposes of the power of  
25 attorney or the best interest of the principal.

26 (b) The provision was inserted as a result of an abuse of a  
27 confidential or fiduciary relationship with the principal.

28 (2) A provision in a power of attorney relieving an agent of  
29 liability under section 111(4) is binding on the principal and the

1 principal's successors in interest except to the extent that it  
2 relieves the agent of liability for breach of duty committed in bad  
3 faith or was inserted as a result of an abuse of a confidential or  
4 fiduciary relationship with the principal.

5 Sec. 116. (1) Without precluding other bases on which such  
6 matters may properly be brought before the court, any of the  
7 following persons may petition a court to construe a power of  
8 attorney or review the agent's conduct and grant appropriate  
9 relief:

10 (a) The principal or the agent.

11 (b) A guardian, conservator, or other fiduciary acting for the  
12 principal.

13 (c) A person that, at the time of the petition, is exercising  
14 authority to make health care decisions for the principal.

15 (d) An individual who, at the time of the petition, would be  
16 an heir of the principal if the principal were to die intestate at  
17 that time.

18 (e) A person named as a beneficiary to receive any property,  
19 benefit, or contractual right on the principal's death or as a  
20 beneficiary of a trust created by or for the principal the trustee  
21 of which has a financial interest in the principal's estate.

22 (f) The personal representative of the principal's estate.

23 (g) Adult protective services.

24 (h) A caregiver or another person that demonstrates sufficient  
25 interest in the principal's welfare.

26 (i) A person asked to accept the power of attorney.

27 (2) Upon motion by the principal, the court shall dismiss a  
28 petition filed under subsection (1) unless the court finds 1 of the  
29 following:



1 (a) That the principal lacks capacity to revoke the agent's  
2 authority or the power of attorney.

3 (b) That the motion is the effect of undue influence, fraud,  
4 or duress.

5 (3) Without precluding other bases on which such matters may  
6 properly be brought before the court, any of the following persons  
7 may petition a court to review conduct regulated by this act on the  
8 part of a person to whom a power of attorney is presented for  
9 acceptance and to grant appropriate relief:

10 (a) The principal or the agent.

11 (b) A guardian, conservator, or other court-appointed  
12 fiduciary acting for the principal.

13 Sec. 117. (1) An agent who violates this act is liable to the  
14 principal or the principal's successors in interest for the amount  
15 required to restore the value of the principal's property to what  
16 it would have been had the violation not occurred, including  
17 reimbursement of attorney fees and costs paid on the agent's behalf  
18 in the defense of conduct constituting or contributing to the  
19 violation.

20 (2) If an agent embezzles or wrongfully converts the  
21 principal's property, or refuses, without colorable claim of right,  
22 to transfer possession of the principal's property to the principal  
23 or the principal's successors in interest on demand, the agent is  
24 liable in an action brought by the principal or the principal's  
25 successors in interest for treble the value of any property  
26 embezzled, converted, or wrongfully withheld from the principal or  
27 the principal's successors in interest.

28 Sec. 118. Unless the power of attorney provides a different  
29 method for an agent's resignation, an agent may resign by notifying

1 the principal if the principal is not incapacitated or, if the  
2 principal is incapacitated, by notifying the following persons, as  
3 applicable:

4 (a) If a conservator or guardian has been appointed for the  
5 principal, the conservator or guardian.

6 (b) If a coagent or successor agent has been designated, the  
7 coagent or successor agent.

8 (c) If there is not a person described in subdivision (a) or  
9 (b), 1 of the following:

10 (i) A caregiver of the principal who is reasonably believed by  
11 the agent to have a significant interest in the principal's welfare  
12 or another person that is reasonably believed by the agent to have  
13 the significant interest.

14 (ii) Adult protective services.

15 Sec. 119. (1) A person that in good faith accepts an  
16 acknowledged power of attorney without actual knowledge that the  
17 signature is not genuine may rely upon the presumption under  
18 section 105(4) that the signature is genuine.

19 (2) A person that in good faith accepts a power of attorney  
20 that is either an acknowledged power or a vintage durable power  
21 without actual knowledge that the power is void, invalid, or  
22 terminated, that the purported agent's authority is void, invalid,  
23 or terminated, or that the agent is exceeding the agent's authority  
24 may rely on the power as if the power were genuine, valid, and  
25 still in effect, the agent's authority were genuine, valid, and  
26 still in effect, and the agent had not exceeded and had properly  
27 exercised the authority. This subsection applies regardless of  
28 whether the purported agent under a durable power has executed an  
29 acknowledgment that complies with section 113(2) or any similar

1 requirement under prior law.

2 (3) If a power of attorney that is durable is presented for  
3 acceptance without an agent's acknowledgment that complies with  
4 section 113(2) and is signed by the agent who is to act on the  
5 principal's behalf in the transaction in question, a person that is  
6 asked to accept the power may require that the agent provide the  
7 acknowledgment before accepting the power.

8 (4) A person that is asked to accept an acknowledged power of  
9 attorney may request and may rely, without further investigation,  
10 upon any of the following:

11 (a) A certification under penalty of perjury, including, as  
12 may be appropriate for the intended purpose, an affidavit in  
13 recordable form, by an agent or an attorney at law who represents  
14 either the agent or the principal of any factual matter concerning  
15 the principal, agent, or power of attorney.

16 (b) An English translation of the power of attorney if the  
17 power contains, in whole or in part, language other than English  
18 and the translation's accuracy is the subject of either a  
19 certification or an opinion of counsel.

20 (c) An opinion of counsel as to any matter of law concerning  
21 the power of attorney if the person requesting the opinion explains  
22 the reason for the request in a record.

23 (5) Except as provided in subsection (6), an English  
24 translation or an opinion of counsel requested under this section  
25 must be provided at the principal's expense unless the request is  
26 made more than 7 business days after the power of attorney is  
27 presented for acceptance.

28 (6) If a person that is asked to accept an acknowledged power  
29 of attorney requests an opinion of counsel under subsection (4),

1 and a court finds that the reason for the request as stated in the  
2 required record is frivolous, the person making the request is  
3 subject to liability for attorney fees and costs incurred in  
4 providing the requested opinion. In deciding whether the stated  
5 reason for the request is frivolous, the court shall consider, in  
6 addition to other relevant factors, whether, in light of the  
7 language of the power, the provisions of this act, and the  
8 surrounding circumstances, there is arguable merit to the legal  
9 concern that the request addresses.

10 (7) As used in this section:

11 (a) "Acknowledged" means purportedly verified before a notary  
12 public or other individual authorized to take acknowledgments.

13 (b) "Vintage durable power" means a power of attorney to which  
14 all of the following apply:

15 (i) The power is valid within the meaning of section 106.

16 (ii) The power is durable under the law that validates the  
17 power within the meaning of section 106.

18 (iii) The power was executed after September 29, 2012 and before  
19 the effective date of this act.

20 Sec. 120. (1) Except as otherwise provided in subsection (3),  
21 a person shall either accept an acknowledged power of attorney or  
22 request an agent's acknowledgment under section 119(3) or a  
23 certification, translation, or opinion of counsel under section  
24 119(4) not later than 7 business days after the power is presented  
25 for acceptance, and a person shall not require either of the  
26 following:

27 (a) An additional or different form of power of attorney for  
28 authority granted in the acknowledged power presented.

29 (b) An additional or different form of agent's acknowledgment

1 if an acknowledgment that complies with section 113(2) and is  
2 signed by the agent who is to act on the principal's behalf in the  
3 transaction in question is presented with the acknowledged power  
4 presented or in response to a request under section 119(3).

5 (2) Except as otherwise provided in subsection (3), if a  
6 person requests an agent's acknowledgment under section 119(3) or a  
7 certification, translation, or opinion of counsel under section  
8 119(4), the person shall accept the power of attorney not later  
9 than 5 business days after receipt of the requested agent's  
10 acknowledgment, certification, translation, or opinion of counsel  
11 or, if more than 1 item has been timely requested in response to  
12 the same presentation, 5 business days after the requesting person  
13 has received all of the items timely requested.

14 (3) A person is not required to accept a power of attorney if  
15 any of the following apply:

16 (a) The person is not required to engage in a transaction with  
17 the principal in the same circumstances.

18 (b) Engaging in a transaction with the agent or the principal  
19 in the same circumstances would be inconsistent with federal law or  
20 with guidance issued by a federal regulatory agency to whose  
21 jurisdiction the person is subject.

22 (c) The person has actual knowledge of the termination of the  
23 agent's authority or of the power of attorney before exercise of  
24 the power.

25 (d) The person's timely request for an agent's acknowledgment  
26 under section 119(3) or a certification, translation, or opinion of  
27 counsel under section 119(4) is refused.

28 (e) The person in good faith believes that the power is not  
29 valid or that the agent does not have the authority to perform the

1 act requested, whether or not an agent's acknowledgment under  
2 section 119(3) or a certification, translation, or opinion of  
3 counsel under section 119(4) has been requested or provided.

4 (f) The person in good faith makes, or has actual knowledge  
5 that another person has made, a report to adult protective services  
6 as defined in section 3 of the financial exploitation prevention  
7 act, 2020 PA 344, MCL 487.2083, stating a belief that the principal  
8 may be subject to physical or financial abuse, neglect,  
9 exploitation, or abandonment by the agent or a person acting for or  
10 with the agent.

11 (g) The person is a financial institution as defined in  
12 section 3 of the financial exploitation prevention act, 2020 PA  
13 344, MCL 487.2083, and the person is, at the time in question,  
14 delaying or placing a freeze on transactions or assets relative to  
15 the principal under the financial exploitation prevention act, 2020  
16 PA 344, MCL 487.2081 to 487.2091.

17 (4) A person that refuses in violation of this section to  
18 accept an acknowledged power of attorney is subject to a court  
19 order mandating acceptance of the power and liability for  
20 reasonable attorney fees and costs incurred in any action or  
21 proceeding that confirms the validity of the power or mandates  
22 acceptance of the power.

23 (5) A person that refuses in violation of this section to  
24 accept an acknowledged power of attorney after having requested and  
25 received a certification, a translation, or an opinion of counsel  
26 under section 119(4) is subject to, in addition to the liability  
27 described in subsection (4), liability for reasonable attorney fees  
28 and costs incurred in providing the requested certification,  
29 translation, or opinion of counsel.

1 (6) As used in this section, "acknowledged" means that term as  
2 defined in section 119.

3 Sec. 121. Unless displaced by a provision of this act,  
4 principles of common law and equity supplement this act.

5 Sec. 122. This act does not supersede any other law applicable  
6 to financial institutions or other regulated entities, and that  
7 other law controls to the extent it is inconsistent with this act.

8 Sec. 123. The remedies under this act are not exclusive and do  
9 not abrogate any right or remedy under the law of this state other  
10 than this act.

11 ARTICLE 2

12 AUTHORITY

13 Sec. 201. (1) An agent under a power of attorney may do the  
14 following on behalf of the principal or with the principal's  
15 property only if the power expressly grants the agent the authority  
16 and exercise of the authority is not prohibited by another  
17 agreement or instrument to which the authority or property is  
18 subject or the authority is granted by judicial order:

19 (a) Create, amend, revoke, or terminate an inter vivos trust.

20 (b) Make a gift.

21 (c) Create or change rights of survivorship.

22 (d) Create or change a beneficiary designation.

23 (e) Delegate authority granted under the power of attorney.

24 (f) Waive the principal's right to be a beneficiary of a joint  
25 and survivor annuity, including a survivor benefit under a  
26 retirement plan.

27 (g) Exercise fiduciary powers that the principal has authority  
28 to delegate.

29 (h) Exercise authority over the content of electronic

1 communications, as defined in 18 USC 2510(12), sent or received by  
2 the principal.

3 (i) Exercise authority over any bank, securities, or other  
4 financial account in a foreign country within the meaning of 31 CFR  
5 1010.350.

6 (2) Notwithstanding a grant of authority to do an act  
7 described in subsection (1), unless the power of attorney provides  
8 otherwise, an agent who is not an ancestor, spouse, or descendant  
9 of the principal shall not exercise authority under a power of  
10 attorney to create in the agent, or in an individual to whom the  
11 agent owes a legal obligation of support, an interest in the  
12 principal's property, whether by gift, right of survivorship,  
13 beneficiary designation, disclaimer, or otherwise. The terms of a  
14 power of attorney may expand or narrow the class of agents  
15 permitted by this subsection to create in the agent, or in an  
16 individual to whom the agent owes a legal obligation of support, an  
17 interest in the principal's property.

18 (3) Subject to subsections (1), (2), (4), and (5), if a power  
19 of attorney grants to an agent authority to do all acts that a  
20 principal could do, the agent has the general authority described  
21 in sections 204 to 216.

22 (4) Unless the power of attorney provides otherwise, a grant  
23 of authority to make a gift is subject to section 217.

24 (5) Subject to subsections (1), (2), and (4), if the subjects  
25 over which authority is granted by a power of attorney are similar  
26 or overlap, the broadest authority controls.

27 (6) Authority granted in a power of attorney is exercisable  
28 with respect to property that the principal has when the power is  
29 executed or acquires later, whether or not the property is located



1 in this state and whether or not the authority is exercised or the  
2 power is executed in this state.

3 (7) An act performed by an agent under a power of attorney has  
4 the same effect and inures to the benefit of and binds the  
5 principal and the principal's successors in interest as if the  
6 principal had performed the act.

7 Sec. 202. (1) An agent has authority described in this article  
8 if the power of attorney does either of the following:

9 (a) Cites the section in which the authority is described.

10 (b) Refers to a heading or catchline added to sections 204 to  
11 217 under section 108 of the legislative council act, 1986 PA 268,  
12 MCL 4.1108.

13 (2) A power of attorney that incorporates by reference any  
14 section of sections 204 to 217 under subsection (1) incorporates  
15 the entire section as if that section were set out in full in the  
16 power.

17 (3) A principal may modify authority incorporated by  
18 reference.

19 Sec. 203. Except as otherwise provided in the power of  
20 attorney, by executing a power that incorporates by reference a  
21 subject described in sections 204 to 217 under section 202 or that  
22 grants to an agent authority to do all acts that a principal could  
23 do under section 201(3), a principal authorizes the agent, with  
24 respect to that subject, to do all of the following:

25 (a) Demand, receive, and obtain, by litigation or otherwise,  
26 money or another thing of value to which the principal is, may  
27 become, or claims to be entitled, and conserve, invest, disburse,  
28 or use anything so received or obtained for the purposes intended.

29 (b) Contract in any manner with any person, on terms agreeable

1 to the agent, to accomplish a purpose of a transaction and perform,  
2 rescind, cancel, terminate, reform, restate, release, or modify the  
3 contract or another contract made by or on behalf of the principal.

4 (c) Execute, acknowledge, seal, deliver, file, or record any  
5 instrument or communication the agent considers desirable to  
6 accomplish a purpose of a transaction, including creating at any  
7 time a schedule listing some or all of the principal's property and  
8 attaching it to the power of attorney.

9 (d) Initiate, participate in, submit to alternative dispute  
10 resolution, settle, oppose, or propose or accept a compromise with  
11 respect to a claim existing in favor of or against the principal or  
12 intervene in litigation relating to the claim.

13 (e) Seek on the principal's behalf the assistance of a court  
14 or other governmental agency to carry out an act authorized in the  
15 power of attorney.

16 (f) Engage, compensate, and discharge an attorney, accountant,  
17 discretionary investment manager, expert witness, or other advisor.

18 (g) Prepare, execute, and file a record, report, or other  
19 document to safeguard or promote the principal's interest under a  
20 statute or regulation.

21 (h) Communicate with any representative or employee of a  
22 government or governmental subdivision, agency, or instrumentality,  
23 on behalf of the principal.

24 (i) Access communications intended for and communicate on  
25 behalf of the principal, whether by mail, electronic transmission,  
26 telephone, or other means.

27 (j) Do any lawful act with respect to the subject and all  
28 property related to the subject.

29 Sec. 204. A power of attorney that authorizes the agent to

1 convey or otherwise exercise power over real property does not need  
2 to contain the real property's legal description. Unless the power  
3 of attorney provides otherwise, language in a power granting  
4 general authority with respect to real property authorizes the  
5 agent to do all of the following:

6 (a) Demand, buy, lease, receive, accept as a gift or as  
7 security for an extension of credit, or otherwise acquire or reject  
8 an interest in real property or a right incident to real property.

9 (b) Sell; exchange; convey with or without covenants,  
10 representations, or warranties; quitclaim; release; surrender;  
11 retain title for security; encumber; partition; consent to  
12 partitioning; subject to an easement or covenant; subdivide; apply  
13 for zoning or other governmental permits; plat or consent to  
14 platting; develop; grant an option concerning; lease; sublease;  
15 contribute to an entity in exchange for an interest in that entity;  
16 or otherwise grant or dispose of an interest in real property or a  
17 right incident to real property.

18 (c) Pledge or mortgage an interest in real property or right  
19 incident to real property as security to borrow money or pay,  
20 renew, or extend the time of payment of a debt of the principal or  
21 a debt guaranteed by the principal.

22 (d) Release, assign, satisfy, or enforce by litigation or  
23 otherwise a mortgage, deed of trust, conditional sale contract,  
24 encumbrance, lien, or other claim to real property that exists or  
25 is asserted.

26 (e) Manage or conserve an interest in real property or a right  
27 incident to real property owned or claimed to be owned by the  
28 principal, including all of the following:

29 (i) Insuring against liability or casualty or other loss.

1           (ii) Obtaining or regaining possession of or protecting the  
2 interest or right by litigation or otherwise.

3           (iii) Paying, assessing, compromising, or contesting taxes or  
4 assessments or applying for and receiving refunds in connection  
5 with them.

6           (iv) Purchasing supplies, hiring labor, and making repairs or  
7 alterations to the real property.

8           (f) Use, develop, alter, replace, remove, erect, or install  
9 structures or other improvements on real property in or incident to  
10 which the principal has, or claims to have, an interest or right.

11           (g) Participate in a reorganization with respect to real  
12 property or an entity that owns an interest in or right incident to  
13 real property and receive, hold, and act with respect to stocks and  
14 bonds or other property received in a plan of reorganization,  
15 including all of the following:

16           (i) Selling or otherwise disposing of them.

17           (ii) Exercising or selling an option, right of conversion, or  
18 similar right with respect to them.

19           (iii) Exercising any voting rights in person or by proxy.

20           (h) Change the form of title of an interest in or right  
21 incident to real property.

22           (i) Dedicate to public use, with or without consideration,  
23 easements or other real property in which the principal has, or  
24 claims to have, an interest.

25           Sec. 205. Unless the power of attorney provides otherwise,  
26 language in a power granting general authority with respect to  
27 tangible personal property authorizes the agent to do all of the  
28 following:

29           (a) Demand, buy, receive, accept as a gift or as security for

1 an extension of credit, or otherwise acquire or reject ownership or  
2 possession of tangible personal property or an interest in tangible  
3 personal property.

4 (b) Sell; exchange; convey with or without covenants,  
5 representations, or warranties; quitclaim; release; surrender;  
6 create a security interest in; grant options concerning; lease;  
7 sublease; or otherwise dispose of tangible personal property or an  
8 interest in tangible personal property.

9 (c) Grant a security interest in tangible personal property or  
10 an interest in tangible personal property as security to borrow  
11 money or pay, renew, or extend the time of payment of a debt of the  
12 principal or a debt guaranteed by the principal.

13 (d) Release, assign, satisfy, or enforce, by litigation or  
14 otherwise, a security interest, lien, or other claim on behalf of  
15 the principal, with respect to tangible personal property or an  
16 interest in tangible personal property.

17 (e) Manage or conserve tangible personal property or an  
18 interest in tangible personal property on behalf of the principal,  
19 including all of the following:

20 (i) Insuring against liability or casualty or other loss.

21 (ii) Obtaining or regaining possession of or protecting the  
22 property or interest, by litigation or otherwise.

23 (iii) Paying, assessing, compromising, or contesting taxes or  
24 assessments or applying for and receiving refunds in connection  
25 with taxes or assessments.

26 (iv) Moving the property from place to place.

27 (v) Storing the property for hire or on a gratuitous bailment.

28 (vi) Using and making repairs, alterations, or improvements to  
29 the property.

1 (f) Change the form of title of an interest in tangible  
2 personal property.

3 Sec. 206. Unless the power of attorney provides otherwise,  
4 language in a power granting general authority with respect to  
5 stocks and bonds authorizes the agent to do all of the following:

6 (a) Buy, sell, and exchange stocks and bonds.

7 (b) Establish, continue, modify, or terminate an account with  
8 respect to stocks and bonds.

9 (c) Pledge stocks and bonds as security to borrow, pay, renew,  
10 or extend the time of payment of a debt of the principal or a debt  
11 guaranteed by the principal.

12 (d) Receive certificates and other evidence of ownership with  
13 respect to stocks and bonds.

14 (e) Exercise voting rights with respect to stocks and bonds in  
15 person or by proxy, enter into voting trusts, and consent to  
16 limitations on the right to vote.

17 Sec. 207. Unless the power of attorney provides otherwise,  
18 language in a power granting general authority with respect to  
19 commodities and options authorizes the agent to do the following:

20 (a) Buy, sell, exchange, assign, settle, and exercise  
21 commodity futures contracts and call or put options on stocks or  
22 stock indexes traded on a regulated option exchange.

23 (b) Establish, continue, modify, and terminate option  
24 accounts.

25 Sec. 208. Unless the power of attorney provides otherwise,  
26 language in a power granting general authority with respect to  
27 banks and other financial institutions authorizes the agent to do  
28 all of the following:

29 (a) Continue, modify, and terminate an account or other

1 banking arrangement made by or on behalf of the principal.

2 (b) Establish, modify, and terminate an account or other  
3 banking arrangement with a bank, trust company, savings and loan  
4 association, credit union, thrift company, brokerage firm, or other  
5 financial institution selected by the agent.

6 (c) Contract for services available from a financial  
7 institution, including renting a safe deposit box or space in a  
8 vault.

9 (d) Withdraw, by check, order, electronic funds transfer, or  
10 otherwise, money or property of the principal deposited with or  
11 left in the custody of a financial institution.

12 (e) Receive statements of account, vouchers, notices, and  
13 similar documents from a financial institution and act with respect  
14 to them.

15 (f) Enter a safe deposit box or vault and withdraw or add to  
16 the contents.

17 (g) Borrow money and pledge as security personal property of  
18 the principal necessary to borrow money or pay, renew, or extend  
19 the time of payment of a debt of the principal or a debt guaranteed  
20 by the principal.

21 (h) Make, assign, draw, endorse, discount, guarantee, and  
22 negotiate promissory notes, checks, drafts, and other negotiable or  
23 nonnegotiable paper of the principal or payable to the principal or  
24 the principal's order, transfer money, receive the cash or other  
25 proceeds of those transactions, and accept a draft drawn by a  
26 person upon the principal and pay it when due.

27 (i) Receive for the principal and act on a sight draft,  
28 warehouse receipt, or other document of title whether tangible or  
29 electronic, or other negotiable or nonnegotiable instrument.

1           (j) Apply for, receive, and use letters of credit, credit and  
2 debit cards, electronic transaction authorizations, and traveler's  
3 checks from a financial institution and give an indemnity or other  
4 agreement in connection with letters of credit.

5           (k) Consent to an extension of the time of payment with  
6 respect to commercial paper or a financial transaction with a  
7 financial institution.

8           Sec. 209. Subject to the terms of a document or an agreement  
9 governing an entity or an entity ownership interest, and unless the  
10 power of attorney provides otherwise, language in a power granting  
11 general authority with respect to operation of an entity or  
12 business authorizes the agent to do all of the following:

13           (a) Operate, buy, sell, enlarge, reduce, or terminate an  
14 ownership interest.

15           (b) Perform a duty or discharge a liability and exercise in  
16 person or by proxy a right, power, privilege, or option that the  
17 principal has, may have, or claims to have.

18           (c) Enforce the terms of an ownership agreement.

19           (d) Initiate, participate in, submit to alternative dispute  
20 resolution, settle, oppose, or propose or accept a compromise with  
21 respect to litigation to which the principal is a party because of  
22 an ownership interest.

23           (e) Exercise in person or by proxy, or enforce, by litigation  
24 or otherwise, a right, power, privilege, or option the principal  
25 has or claims to have as the holder of stocks and bonds.

26           (f) Initiate, participate in, submit to alternative dispute  
27 resolution, settle, oppose, or propose or accept a compromise with  
28 respect to litigation to which the principal is a party concerning  
29 stocks and bonds.



1           (g) With respect to an entity or business owned solely by the  
2 principal, do all of the following:

3           (i) Continue, modify, renegotiate, extend, and terminate a  
4 contract made by or on behalf of the principal with respect to the  
5 entity or business before execution of the power of attorney.

6           (ii) Determine all of the following:

7           (A) The location of the entity's or business's operation.

8           (B) The nature and extent of the business.

9           (C) The methods of manufacturing, selling, merchandising,  
10 financing, accounting, and advertising employed in the entity's or  
11 business's operation.

12           (D) The amount and types of insurance carried.

13           (E) The mode of engaging, compensating, and dealing with the  
14 entity's or business's employees and accountants, attorneys, or  
15 other advisors.

16           (iii) Change the name or form of organization under which the  
17 entity or business is operated or enter into an ownership agreement  
18 with other persons to take over all or part of the operation of the  
19 entity or business.

20           (iv) Demand and receive money due or claimed by the principal  
21 or on the principal's behalf in the operation of the entity or  
22 business and control and disburse the money in the operation of the  
23 entity or business.

24           (h) Put additional capital into an entity or business in which  
25 the principal has an interest.

26           (i) Join in a plan of reorganization, consolidation,  
27 conversion, domestication, or merger of the entity or business.

28           (j) Sell or liquidate all or part of an entity or business.

29           (k) Establish the value of an entity or business under a buy-

1 out agreement to which the principal is a party.

2 (l) Prepare, sign, file, and deliver reports, compilations of  
3 information, returns, or other records with respect to an entity or  
4 business and make related payments.

5 (m) Pay, compromise, or contest taxes, assessments, fines, or  
6 penalties and perform any other act to protect the principal from  
7 illegal or unnecessary taxation, assessments, fines, or penalties,  
8 with respect to an entity or business, including attempts to  
9 recover, in any manner permitted by law, money paid before or after  
10 the execution of the power of attorney.

11 Sec. 210. Unless the power of attorney provides otherwise,  
12 language in a power granting general authority with respect to  
13 insurance and annuities authorizes the agent to do all of the  
14 following:

15 (a) Continue, pay the premium or make a contribution on,  
16 modify, exchange, rescind, release, or terminate a contract  
17 procured by or on behalf of the principal that insures or provides  
18 an annuity to either the principal or another person, whether or  
19 not the principal is a beneficiary under the contract.

20 (b) Procure new, different, and additional contracts of  
21 insurance and annuities for the principal and the principal's  
22 spouse, children, and other dependents, and select the amount, type  
23 of insurance or annuity, and mode of payment.

24 (c) Pay the premium or make a contribution on, modify,  
25 exchange, rescind, release, or terminate a contract of insurance or  
26 annuity procured by the agent.

27 (d) Apply for and receive a loan secured by a contract of  
28 insurance or annuity.

29 (e) Surrender and receive the cash surrender value on a

1 contract of insurance or annuity.

2 (f) Exercise an election.

3 (g) Exercise investment powers available under a contract of  
4 insurance or annuity.

5 (h) Change the manner of paying premiums on a contract of  
6 insurance or annuity.

7 (i) Change or convert the type of insurance or annuity with  
8 respect to which the principal has or claims to have authority  
9 described in this section.

10 (j) Apply for and procure a benefit or assistance under a  
11 statute or regulation to guarantee or pay premiums of a contract of  
12 insurance on the life of the principal.

13 (k) Collect, sell, assign, hypothecate, borrow against, or  
14 pledge the interest of the principal in a contract of insurance or  
15 annuity.

16 (l) Select the form and timing of the payment of proceeds from  
17 a contract of insurance or annuity.

18 (m) Pay, from proceeds or otherwise, compromise or contest,  
19 and apply for refunds in connection with, a tax or assessment  
20 levied by a taxing authority with respect to a contract of  
21 insurance or annuity or its proceeds or liability accruing by  
22 reason of the tax or assessment.

23 Sec. 211. (1) Unless the power of attorney provides otherwise,  
24 language in a power granting general authority with respect to  
25 estates, trusts, and other beneficial interests authorizes the  
26 agent to do all of the following:

27 (a) Accept, receive, receipt for, sell, assign, pledge, or  
28 exchange a share in or payment from an estate, trust, or other  
29 beneficial interest.

1           (b) Demand or obtain money or another thing of value to which  
2 the principal is, may become, or claims to be, entitled by reason  
3 of an estate, trust, or other beneficial interest, by litigation or  
4 otherwise.

5           (c) Exercise for the benefit of the principal a presently  
6 exercisable general power of appointment held by the principal.

7           (d) Initiate, participate in, submit to alternative dispute  
8 resolution, settle, oppose, or propose or accept a compromise with  
9 respect to litigation to ascertain the meaning, validity, or effect  
10 of a deed, will, declaration of trust, or other instrument or  
11 transaction affecting the interest of the principal.

12           (e) Initiate, participate in, submit to alternative dispute  
13 resolution, settle, oppose, or propose or accept a compromise with  
14 respect to litigation to remove, substitute, or surcharge a  
15 fiduciary.

16           (f) Conserve, invest, disburse, or use anything received for  
17 an authorized purpose.

18           (g) Transfer an interest of the principal in real property,  
19 stocks and bonds, accounts with financial institutions or  
20 securities intermediaries, insurance, annuities, and other property  
21 to the trustee of a revocable trust created by the principal as  
22 settlor.

23           (2) As used in this section, "estate, trust, or other  
24 beneficial interest" means a trust, probate estate, guardianship,  
25 conservatorship, escrow, or custodianship or a fund from which the  
26 principal is, may become, or claims to be entitled to a share or  
27 payment.

28           Sec. 212. Unless the power of attorney provides otherwise,  
29 language in a power granting general authority with respect to

1 claims and litigation authorizes the agent to do all of the  
2 following:

3 (a) Assert and maintain before a court or administrative  
4 agency a claim, claim for relief, cause of action, counterclaim,  
5 offset, recoupment, or defense, including an action to recover  
6 property or other thing of value, recover damages sustained by the  
7 principal, eliminate or modify tax liability, or seek an  
8 injunction, specific performance, or other relief.

9 (b) Bring an action to determine adverse claims or intervene  
10 or otherwise participate in litigation.

11 (c) Seek an attachment, garnishment, order of arrest, or other  
12 preliminary, provisional, or intermediate relief and use an  
13 available procedure to effect or satisfy a judgment, order, or  
14 decree.

15 (d) Make or accept a tender, offer of judgment, or admission  
16 of facts, submit a controversy on an agreed statement of facts,  
17 consent to examination, and bind the principal in litigation.

18 (e) Submit to alternative dispute resolution, settle, and  
19 propose or accept a compromise.

20 (f) Waive the issuance and service of process on the  
21 principal, accept service of process, appear for the principal,  
22 designate persons on whom process directed to the principal may be  
23 served, execute and file or deliver stipulations on the principal's  
24 behalf, verify pleadings, seek appellate review, procure and give  
25 surety and indemnity bonds, contract and pay for the preparation  
26 and printing of records and briefs, receive, execute, and file or  
27 deliver a consent, waiver, release, confession of judgment,  
28 satisfaction of judgment, notice, agreement, or other instrument in  
29 connection with the prosecution, settlement, or defense of a claim

1 or litigation.

2 (g) Act for the principal with respect to bankruptcy or  
3 insolvency, whether voluntary or involuntary, concerning the  
4 principal or some other person, or with respect to a  
5 reorganization, receivership, or application for the appointment of  
6 a receiver or trustee that affects an interest of the principal in  
7 property or other thing of value.

8 (h) Pay a judgment, award, or order against the principal or a  
9 settlement made in connection with a claim or litigation.

10 (i) Receive money or other thing of value paid in settlement  
11 of or as proceeds of a claim or litigation.

12 Sec. 213. (1) Unless the power of attorney provides otherwise,  
13 language in a power granting general authority with respect to  
14 personal and family maintenance authorizes the agent to do all of  
15 the following:

16 (a) Perform the acts necessary to maintain the customary  
17 standard of living of the principal, the principal's spouse, and  
18 the following individuals, whether they are living when the power  
19 of attorney is executed or are born later:

20 (i) The principal's children.

21 (ii) Individuals legally entitled to be supported by the  
22 principal.

23 (iii) Individuals whom the principal has customarily supported  
24 or indicated the intent to support.

25 (b) Make periodic payments of child support and other family  
26 maintenance required by a court or governmental agency or an  
27 agreement to which the principal is a party.

28 (c) Provide living quarters for the individuals described in  
29 subdivision (a) by any the following:

1 (i) Purchase, lease, or other contract.

2 (ii) Paying the operating costs, including interest,  
3 amortization payments, repairs, improvements, and taxes, for  
4 premises owned by the principal or occupied by those individuals.

5 (d) Provide normal domestic help, usual vacations and travel  
6 expenses, and funds for shelter, clothing, food, appropriate  
7 education, including postsecondary and vocational education, and  
8 other current living costs for the individuals described in  
9 subdivision (a).

10 (e) Pay expenses for necessary health care and custodial care  
11 on behalf of the individuals described in subdivision (a).

12 (f) Act as the principal's personal representative under the  
13 health insurance portability and accountability act of 1996, Public  
14 Law 104-191, sections 1171 to 1179 of the social security act, 42  
15 USC 1320d to 1320d-8, and applicable regulations, in making  
16 decisions related to the past, present, or future payment for the  
17 provision of health care consented to by the principal or anyone  
18 authorized under the law of this state to consent to health care on  
19 behalf of the principal.

20 (g) Continue any provision made by the principal for  
21 automobiles or other means of transportation, including  
22 registering, licensing, insuring, and replacing them, for the  
23 individuals described in subdivision (a).

24 (h) Maintain credit and debit accounts for the convenience of  
25 the individuals described in subdivision (a) and open new accounts  
26 for that purpose.

27 (i) Continue payments incidental to the membership or  
28 affiliation of the principal in a religious institution, club,  
29 society, order, or other organization or to continue an established

1 pattern of contributions to those organizations.

2 (2) Authority with respect to personal and family maintenance  
3 is not dependent on, or limited by, authority that an agent may or  
4 may not have with respect to gifts under this act.

5 Sec. 214. (1) Unless the power of attorney provides otherwise,  
6 language in a power granting general authority with respect to  
7 benefits from governmental programs or civil or military service  
8 authorizes the agent to do all of the following:

9 (a) Execute vouchers in the name of the principal for  
10 allowances and reimbursements payable by the United States or a  
11 foreign government or by a state or subdivision of a state to the  
12 principal, including allowances and reimbursements for  
13 transportation of the individuals described in section 213(1) (a),  
14 and for shipment of their household effects.

15 (b) Take possession and order the removal and shipment of  
16 property of the principal from a post, warehouse, depot, dock, or  
17 other place of storage or safekeeping, either governmental or  
18 private, and execute and deliver a release, voucher, receipt, bill  
19 of lading, shipping ticket, certificate, or other instrument for  
20 that purpose.

21 (c) Enroll in, apply for, select, reject, change, amend, or  
22 discontinue, on the principal's behalf, a benefit or program.

23 (d) Prepare, file, and maintain a claim of the principal for a  
24 benefit or assistance, financial or otherwise, to which the  
25 principal may be entitled under a statute or regulation.

26 (e) Initiate, participate in, submit to alternative dispute  
27 resolution, settle, oppose, or propose or accept a compromise with  
28 respect to litigation concerning any benefit or assistance the  
29 principal may be entitled to receive under a statute or regulation.



1 (f) Receive the financial proceeds of a claim described in  
2 subdivision (d) and conserve, invest, disburse, or use for a lawful  
3 purpose anything so received.

4 (2) As used in this section, "benefits from governmental  
5 programs or civil or military service" means any benefit, program,  
6 or other assistance provided under a statute or regulation  
7 including Social Security, Medicare, and Medicaid.

8 Sec. 215. (1) Unless the power of attorney provides otherwise,  
9 language in a power granting general authority with respect to  
10 retirement plans authorizes the agent to do all of the following:

11 (a) Select the form and timing of payments under a retirement  
12 plan and withdraw benefits from a plan.

13 (b) Make a rollover or a trustee-to-trustee transfer of  
14 benefits from 1 retirement plan to another.

15 (c) Establish a retirement plan in the principal's name.

16 (d) Make contributions to a retirement plan.

17 (e) Exercise investment powers available under a retirement  
18 plan.

19 (f) Borrow from, sell assets to, or purchase assets from a  
20 retirement plan as permitted by the plan.

21 (2) As used in this section, "retirement plan" means a plan or  
22 account created by an employer, the principal, or another  
23 individual to provide retirement benefits or deferred compensation  
24 of which the principal is a participant, beneficiary, or owner,  
25 including a plan or account under any of the following:

26 (a) An individual retirement account under section 408 of the  
27 internal revenue code of 1986, 26 USC 408.

28 (b) A Roth individual retirement account under section 408A of  
29 the internal revenue code of 1986, 26 USC 408A.

1 (c) A deemed individual retirement account under section  
2 408(q) of the internal revenue code of 1986, 26 USC 408.

3 (d) An annuity or mutual fund custodial account under section  
4 403(b) of the internal revenue code of 1986, 26 USC 403.

5 (e) A pension, profit-sharing, stock bonus, or other  
6 retirement plan qualified under section 401(a) of the internal  
7 revenue code of 1986, 26 USC 401.

8 (f) A plan under section 457(b) of the internal revenue code  
9 of 1986, 26 USC 457.

10 (g) A nonqualified deferred compensation plan under section  
11 409A of the internal revenue code of 1986, 26 USC 409A.

12 Sec. 216. Unless the power of attorney provides otherwise,  
13 language in a power granting general authority with respect to  
14 taxes authorizes the agent to do all of the following:

15 (a) Prepare, sign, and file federal, state, local, and foreign  
16 income, gift, payroll, property, federal insurance contributions  
17 act, and other tax returns, claims for refunds, requests for  
18 extension of time, petitions regarding tax matters, and any other  
19 tax-related documents, including receipts, offers, waivers,  
20 consents, including consents and agreements under section 2032A of  
21 the internal revenue code of 1986, 26 USC 2032A, closing  
22 agreements, and any power of attorney required by the Internal  
23 Revenue Service or other taxing authority with respect to a tax  
24 year upon which the statute of limitations has not run and the  
25 following 25 tax years.

26 (b) Pay taxes due, collect refunds, post bonds, receive  
27 confidential information, and contest deficiencies determined by  
28 the Internal Revenue Service or other taxing authority.

29 (c) Exercise any election available to the principal under

1 federal, state, local, or foreign tax law, including consent, under  
2 section 2513 of the internal revenue code of 1986, 26 USC 2513, to  
3 the splitting of 1 or more gifts made by the principal's spouse.

4 (d) Act for the principal in all tax matters for all periods  
5 before the Internal Revenue Service or other taxing authority.

6 Sec. 217. (1) Unless the power of attorney provides otherwise,  
7 language in a power granting general authority with respect to  
8 gifts authorizes the agent to make outright gifts of the  
9 principal's property, including by the exercise of a presently  
10 exercisable general power of appointment held by the principal, to,  
11 or for the benefit of, a person or persons as the agent determines  
12 is consistent with the principal's objectives if actually known by  
13 the agent and, to the extent the principal's objectives are  
14 unknown, as the agent determines is consistent with the principal's  
15 best interest based on all relevant factors, including the  
16 following:

17 (a) The value and nature of the principal's property.

18 (b) The principal's foreseeable obligations and need for  
19 maintenance, including anticipated private-pay nursing or assisted-  
20 living care costs incurred in a facility or at home.

21 (c) The desirability of minimizing taxes, including income,  
22 estate, inheritance, generation-skipping transfer, and gift taxes.

23 (d) Eligibility for a benefit, a program, or assistance under  
24 a statute or regulation, including eligibility for assistance with  
25 nursing or assisted-living care in a facility or at home.

26 (e) The principal's personal history of making gifts.

27 (2) As used in this section, a gift "for the benefit of" a  
28 person includes, without limitation, a gift in trust, an account  
29 under the Michigan uniform transfers to minors act, 1998 PA 433,

1 MCL 554.521 to 554.552, a tuition savings account or prepaid  
2 tuition plan as described under section 529 of the internal revenue  
3 code of 1986, 26 USC 529, and an ABLE account as defined under  
4 section 529A of the internal revenue code of 1986, 26 USC 529A.

5 ARTICLE 3

6 STATUTORY FORMS

7 Sec. 301. A document substantially in the following form may  
8 be used to create a statutory form power of attorney that has the  
9 meaning and effect prescribed by this act:

10  
11 MICHIGAN

12 STATUTORY FORM POWER OF ATTORNEY

13  
14 IMPORTANT INFORMATION

15 This power of attorney authorizes another person (your agent) to  
16 make decisions concerning your property for you (the principal). It  
17 is, therefore, an important legal document, and **you are taking a**  
18 **serious step if you decide to make use of this form without seeking**  
19 **legal advice;** for if the person you designate as your agent accepts  
20 authority granted under this power of attorney, the agent will be  
21 able to make decisions and act with respect to your property  
22 (including your money). The extent of your agent's authority over  
23 subjects listed on this form is explained in the uniform power of  
24 attorney act, MCL 556.201 to 556.505.

25  
26 This power of attorney does not authorize the agent to make health  
27 care decisions for you and it does not authorize the agent to  
28 exercise powers you have as a parent or guardian regarding care,  
29 custody, or property of a minor child or ward.

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You should select someone you trust to serve as your agent and you should ask yourself as you review each section of this form, whether you have chosen the right person(s) to act in that capacity. If your signature on this form is notarized or witnessed as provided below, then unless you specify otherwise, the agent's authority will generally continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of an agent and successor agent(s) who serve one at a time, as opposed to coagents who serve simultaneously. If you wish to name coagents, you may do so in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions. And unless you state otherwise in the Special Instructions, this power of attorney does not revoke any other power of attorney you may have created.

1 If you have questions about the power of attorney or the authority  
2 it grants to your agent, you should seek legal advice before  
3 signing this form.

4

5 **DESIGNATION OF AGENT**

6

7 I \_\_\_\_\_ name

8 (Name of Principal)

9 the following person as my agent:

10

11 Name of Agent: \_\_\_\_\_

12

13 Agent's Address: \_\_\_\_\_

14

15 Agent's Telephone Number: \_\_\_\_\_

16

17 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

18

19 If my agent is unable or unwilling to act for me, I name as my  
20 successor agent:

21

22 Name of Successor Agent: \_\_\_\_\_

23

24 Successor Agent's Address: \_\_\_\_\_

25

26 Successor Agent's Telephone Number: \_\_\_\_\_

27

28 If my successor agent is unable or unwilling to act for me, I name  
29 as my second successor agent:

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Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

**GRANT OF GENERAL AUTHORITY**

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, MCL 556.201 to 556.505:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may simply initial "All Preceding Subjects.")

- (\_\_\_) Real Property
- (\_\_\_) Tangible Personal Property
- (\_\_\_) Stocks and Bonds
- (\_\_\_) Commodities and Options
- (\_\_\_) Banks and Other Financial Institutions
- (\_\_\_) Operation of Entity or Business
- (\_\_\_) Insurance and Annuities
- (\_\_\_) Estates, Trusts, and Other Beneficial Interests
- (\_\_\_) Claims and Litigation
- (\_\_\_) Personal and Family Maintenance
- (\_\_\_) Benefits from Governmental Programs or Civil or Military Service

- 1      Retirement Plans
- 2      Taxes
- 3      All Preceding Subjects (regardless of whether any of the
- 4     preceding subjects are initialed)

5

6                   **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

7

8     My agent MAY NOT do any of the following specific acts for me

9     UNLESS I have INITIALED the specific authority listed below:

10

11    **CAUTION!** Granting any of the following will give your agent the

12    authority to take actions that could significantly reduce your

13    property or change how your property is distributed at your death.

14    Furthermore, depending on the amount in one or more of the accounts

15    mentioned in the last item listed below (which refers to 31 CFR

16    1010.350), granting that particular power may subject your agent to

17    burdensome federal reporting obligations that are subject to stiff

18    penalties. INITIAL ONLY the specific authority you WANT to give

19    your agent. If you have questions about the wisdom of granting any

20    specific authority to your agent, you should seek legal advice

21    before signing this form. **If you are inclined to grant specific**

22    **authority but doubt the wisdom of granting that authority to a**

23    **particular person you have designated as your agent or successor**

24    **agent, you should ask yourself whether you have designated the**

25    **right person(s).**

- 26
- 27     Create, amend, revoke, or terminate an inter vivos trust



1 ( ) Make a gift as limited by section 217 of the uniform power of  
2 attorney act, MCL 556.317, and any special instructions in this  
3 power of attorney

4 ( ) Create or change rights of survivorship by, for example,  
5 creating a joint account

6 ( ) Create or change a beneficiary designation

7 ( ) Authorize another person to exercise the authority granted  
8 under this power of attorney

9 ( ) Waive the principal's right to be a beneficiary of a joint  
10 and survivor annuity, including a survivor benefit under a  
11 retirement plan

12 ( ) Exercise fiduciary powers that the principal has authority to  
13 delegate

14 ( ) Access the content of electronic communications

15 ( ) Exercise authority over any "bank, securities, or other  
16 financial account in a foreign country" within the meaning of 31  
17 CFR 1010.350

18

19 **LIMITATION ON AGENT'S AUTHORITY**

20

21 Even if I have authorized my agent to make a gift (by initialing  
22 the relevant line above), an agent who is not my ancestor, spouse,  
23 or descendant MAY NOT use my property to benefit the agent or a  
24 person to whom the agent owes an obligation of support unless I  
25 have included that authority in the Special Instructions.

26

27 **SPECIAL INSTRUCTIONS (OPTIONAL)**

28

29 You may give special instructions on the following lines.

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**CAUTION!** Special instructions are liable to cause ambiguities that may impair the effectiveness of this power of attorney. You are taking a solemn step if you decide to make any use of this form without seeking legal advice; **you should be especially wary of providing special instructions without the benefit of legal counsel.**

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**EFFECTIVE DATE**

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

**EFFECT ON PREVIOUS POWERS OF ATTORNEY**

Unless I have said otherwise in the Special Instructions, the execution of this power of attorney does not revoke any prior power of attorney.

**NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

1 If it becomes necessary for a court to appoint a conservator or  
2 guardian of my estate or guardian of my person, I nominate the  
3 following person(s) for appointment:  
4

5 Name of Nominee for Conservator or Guardian of My Estate:  
6 \_\_\_\_\_  
7

8 Nominee's Address: \_\_\_\_\_  
9

10 Nominee's Telephone Number: \_\_\_\_\_  
11

12 Name of Nominee for Guardian of My Person: \_\_\_\_\_  
13

14 Nominee's Address: \_\_\_\_\_  
15

16 Nominee's Telephone Number: \_\_\_\_\_  
17

18 **RELIANCE ON THIS POWER OF ATTORNEY**

19  
20 Any person, including my agent, may rely upon the validity of this  
21 power of attorney or a copy of it unless that person knows that the  
22 power has terminated or is invalid.  
23

24 **SIGNATURE OF PRINCIPAL, SIGNATURES OF WITNESSES,**  
25 **AND ACKNOWLEDGMENT**  
26

1 **CAUTION!** Unless you provide otherwise in the Special Instructions,  
 2 this form will create a "durable" power of attorney if you sign it  
 3 either before a notary public (or other individual authorized to  
 4 take acknowledgments) or in the presence of two witnesses neither  
 5 of whom is designated as your agent or successor agent, both of  
 6 whom sign below (and one of whom may be the notary public or other  
 7 individual authorized by law to take acknowledgments who also signs  
 8 below in his or her official capacity). The power's being "durable"  
 9 means that unless the power is revoked or the agent's authority is  
 10 otherwise terminated beforehand, your agent's authority will  
 11 continue during any period in which you are alive but  
 12 incapacitated. **If you have questions about the wisdom of making**  
 13 **this power durable, you should seek legal advice before signing**  
 14 **this form.**

15  
 16 **CAUTION!** You have an important motivation to acknowledge your  
 17 signature before a notary public (or other individual authorized to  
 18 take acknowledgments) regardless of the question of durability  
 19 (described above): doing so will make it harder, under section 120  
 20 of the uniform power of attorney act, MCL 556.220, for someone to  
 21 whom the power is presented to decline to accept the power and your  
 22 agent's authority to act on your behalf.

23  
 24 \_\_\_\_\_

25 Your Signature

\_\_\_\_\_ Date

26  
 27 \_\_\_\_\_

28 Your Name Printed

29

1 \_\_\_\_\_

2 Your Address

3 \_\_\_\_\_

4 \_\_\_\_\_

5 Your Telephone Number

6 \_\_\_\_\_

7 \_\_\_\_\_

8 Witness No. 1's Signature

\_\_\_\_\_ Date

9 \_\_\_\_\_

10 \_\_\_\_\_

11 Witness No. 1's Name Printed

12 \_\_\_\_\_

13 \_\_\_\_\_

14 Witness No. 1's Address

15 \_\_\_\_\_

16 \_\_\_\_\_

17 Witness No. 2's Signature

\_\_\_\_\_ Date

18 \_\_\_\_\_

19 \_\_\_\_\_

20 Witness No. 2's Name Printed

21 \_\_\_\_\_

22 \_\_\_\_\_

23 Witness No. 2's Address

24 \_\_\_\_\_

25 State of \_\_\_\_\_

26 [County] of \_\_\_\_\_

27 \_\_\_\_\_

28 This document was acknowledged before me on \_\_\_\_\_

(Date)

29 \_\_\_\_\_

1 by \_\_\_\_\_.

2 (Name of Principal)

3  
4 \_\_\_\_\_ (Seal, if any)

5  
6 Signature of Notary \_\_\_\_\_

7  
8 My commission expires: \_\_\_\_\_

9  
10 This document prepared by:

11 \_\_\_\_\_  
12 \_\_\_\_\_

13  
14 **IMPORTANT INFORMATION FOR AGENT**

15 **Agent's Duties**

16  
17 When you accept authority granted under this power of attorney, a  
18 special legal relationship is created between you and the  
19 principal. This relationship imposes upon you legal duties that  
20 continue until you resign or the power or your authority under it  
21 is terminated by a termination event described in the uniform power  
22 of attorney act, MCL 556.201 to 556.505. You must:

- 23  
24 (1) Do what you know the principal reasonably expects you to do  
25 with the principal's property or, if you do not know the  
26 principal's expectations, act in the principal's best interest;  
27 (2) Act in good faith;  
28 (3) Do nothing beyond the authority granted in this power of  
29 attorney;

1 (4) Keep a record of receipts, disbursements, and transactions made  
2 on behalf of the principal;

3 (5) Disclose your identity as an agent whenever you act for the  
4 principal by, for example, writing or printing the name of the  
5 principal and signing your own name as "agent" in the following  
6 manner:

7

8 (Principal's Name) by (Your Signature) as Agent;

9 (6) And if the power is "durable" in the sense described below, you  
10 must, before acting as agent under the power, sign an  
11 acknowledgment of your duties as agent that contains all the  
12 declarations contained in the optional template "Agent's  
13 Acknowledgment" provided in section 302 of the uniform power of  
14 attorney act, MCL 556.402, in substantially the form of that  
15 optional template.

16

17 Unless the Special Instructions in this power of attorney state  
18 otherwise, you must also:

19

20 (1) Act loyally for the principal's benefit;

21 (2) Avoid conflicts that would impair your ability to act in the  
22 principal's best interest;

23 (3) Act with care, competence, and diligence;

24 (4) Cooperate with any person that has authority to make health  
25 care decisions for the principal to do what you know the principal  
26 reasonably expects concerning health care or, if you do not know  
27 the principal's expectations, to act in the principal's best  
28 interest; and

1 (5) Attempt, to the extent of the powers you have been granted as  
2 agent, to preserve the principal's estate plan if you know the plan  
3 and preserving the plan is consistent with the principal's best  
4 interest.

5

6 **Termination of Agent's Authority**

7

8 You must stop acting on behalf of the principal if you learn of any  
9 event that terminates this power of attorney or your authority  
10 under it. Events that terminate a power of attorney or your  
11 authority to act under such a power include:

12

13 (1) Death of the principal;

14 (2) The principal's revocation of the power of attorney or your  
15 authority;

16 (3) The occurrence of a termination event stated in the power;

17 (4) If the power is intended only for a specified, limited purpose,  
18 the specified purpose of the power is fully accomplished; or

19 (5) If you are married to the principal, a legal action is filed  
20 with a court to end your marriage, or for your legal separation,  
21 unless the Special Instructions in this power of attorney state  
22 that such an action will not terminate your authority.

23

24 **Statutory Duty to Acknowledge Agent's Duties under "Durable" Power**

25



1 Unless the Special Instructions in this power of attorney state  
2 otherwise, this form will create a "durable" power of attorney  
3 (meaning that unless the power is revoked or your authority is  
4 otherwise terminated beforehand, your authority as agent will  
5 continue during any period in which the principal is alive but  
6 incapacitated) if the principal signs it either before a notary  
7 public (or other individual authorized to take acknowledgments) or  
8 in the presence of two witnesses neither of whom is designated as  
9 the principal's agent or successor agent and both of whom also sign  
10 the form. If this power of attorney is durable, then before you act  
11 as agent under the power, you must execute an acknowledgment of  
12 your duties as agent that contains all the declarations contained  
13 in the optional template "Agent's Acknowledgment" provided in  
14 section 302 of the uniform power of attorney act, MCL 556.402, in  
15 substantially the form of that optional template.

16

#### 17 **Liability of Agent**

18

19 The meaning of the authority granted to you is defined in the  
20 uniform power of attorney act, MCL 556.201 to 556.505. If you  
21 violate that act or the terms of this power, you may be liable for  
22 any damages caused by your violation.

23

24 **If there is anything about this document or your duties under it**  
25 **that you do not understand, you should seek legal advice.**

26

27 Sec. 302. The following optional template may be used by a  
28 nominated agent under a durable power of attorney to provide the  
29 acknowledgment required by section 113(2):

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**AGENT'S ACKNOWLEDGMENT**

I, \_\_\_\_\_, have been appointed agent for  
\_\_\_\_\_ (Your Name), the principal  
\_\_\_\_\_ (Name of Principal), under a durable power  
of attorney dated \_\_\_\_\_. By signing this document, I  
acknowledge that if and when I act as agent under the power, all of  
the following apply:

**MY DUTIES AS AGENT**

- I must:
1. Do what I know the principal reasonably expects me to do with the principal's property or, if I do not know the principal's expectations, act in the principal's best interest.
  2. Act in good faith.
  3. Do nothing beyond the authority granted in the durable power of attorney.
  4. Keep reasonable records of receipts, disbursements, and transactions I make on behalf of the principal.
  5. Disclose my identity as an agent whenever I act for the principal by writing or printing the principal's name and signing my own name as "agent".

1 6. And depending on the terms of the power of attorney, I may have  
2 additional duties described in section 114 of the uniform power of  
3 attorney act, MCL 556.201 to 556.505, including the presumptive  
4 duties to act loyally for the principal's benefit, avoid conflicts  
5 of interest that would make it hard for me to act in the  
6 principal's best interest, and act with care, competence, and  
7 diligence.

8

9

**POWERS REQUIRING SPECIFIC AUTHORITY**

10

11 Unless specifically provided in the durable power of attorney or by  
12 judicial order, I cannot do any of the following:

13

- 14 1. Create, amend, revoke, or terminate an inter vivos trust.
- 15 2. Make a gift of the principal's property to someone else, let  
16 alone to myself.
- 17 3. Create or change rights of survivorship by, for example,  
18 creating a joint account.
- 19 4. Create or change a beneficiary designation.
- 20 5. Delegate authority granted under the durable power of attorney.
- 21 6. Exercise fiduciary powers that the principal has authority to  
22 delegate.
- 23 7. Waive the principal's right to be a beneficiary of a joint and  
24 survivor annuity, including a survivor benefit under a retirement  
25 plan.
- 26 8. Exercise authority over the content of electronic  
27 communications, as defined in 18 USC 2510, sent or received by the  
28 principal.

1 9. Exercise authority over any bank, securities, or other financial  
2 account in a foreign country within the meaning of 31 CFR 1010.350.

3  
4 **TERMINATION OF MY AUTHORITY**

5  
6 I must stop acting on behalf of the principal if I learn of any  
7 event that terminates the durable power of attorney or my authority  
8 under the power, including the death of the principal or the  
9 principal's revocation of either the power or my authority to act  
10 under it.

11  
12 **MY POTENTIAL LIABILITY AS AGENT**

13  
14 If I violate the uniform power of attorney act, MCL 556.201 to  
15 556.505, or act outside the authority granted in the durable power,  
16 I may be liable to the principal or the principal's successors for  
17 damages caused by my violation and to civil or criminal penalties.  
18 An exoneration clause in the power (if any) does not relieve me of  
19 liability for acts or omissions committed in bad faith or, in some  
20 cases, for acts or omissions committed with reckless indifference  
21 to the purposes of the power of attorney or the interests of the  
22 principal.

23  
24 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

25  
26 **If there is anything about this document or your duties that you do**  
27 **not understand, you should seek legal advice.**

28  
29 Sec. 303. The following optional template may be used by an

1 agent or an attorney at law who represents either the agent or the  
2 principal to certify facts concerning a power of attorney:

3

4 **CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S**  
5 **AUTHORITY**

6

7 State of \_\_\_\_\_

8 [County] of \_\_\_\_\_

9

10 I, \_\_\_\_\_ (Name of  
11 Certifier), certify under penalty of perjury that

12 \_\_\_\_\_ (Name of Principal)

13 granted \_\_\_\_\_ (Name of

14 Agent) authority as an agent or successor agent in a power of

15 attorney dated \_\_\_\_\_.

16

17 I further certify that to my knowledge:

18

19 (1) The Principal is alive and has not revoked the Power of  
20 Attorney or the Agent's authority to act under the Power and the  
21 Power and the Agent's authority to act under the Power have not  
22 otherwise terminated;

23

24 (2) If the Power of Attorney was drafted to become effective upon  
25 the happening of a specified event or contingency, the specified  
26 event or contingency has occurred;

27

28 (3) If the Agent was named as a successor agent, the prior agent is  
29 unable or unwilling to serve; and

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(4) \_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

(Insert other relevant statements. You may attach separate sheets if additional space is needed.)

**SIGNATURE AND ACKNOWLEDGMENT**

\_\_\_\_\_  
Certifier's Signature \_\_\_\_\_  
Date

\_\_\_\_\_  
Certifier's Name Printed

\_\_\_\_\_  
Certifier's Capacity (as Agent, attorney at law for Agent, or attorney at law for Principal)

\_\_\_\_\_  
Certifier's Address

\_\_\_\_\_  
Certifier's Telephone Number

1 This document was acknowledged before me on \_\_\_\_\_,  
2 (Date)

3 by \_\_\_\_\_  
4 (Name of Certifier)

5 \_\_\_\_\_ (Seal, if any)  
6  
7 Signature of Notary

8 My commission expires: \_\_\_\_\_

9  
10 This document prepared by:

11  
12 \_\_\_\_\_

13  
14 ARTICLE 4

15 MISCELLANEOUS PROVISIONS

16 Sec. 401. In applying and construing this act, consideration  
17 should be given to the need to promote uniformity of the law with  
18 respect to the act's subject matter among the states that enact the  
19 uniform act on which this act is based.

20 Sec. 402. This act modifies, limits, and supersedes the  
21 federal electronic signatures in global and national commerce act,  
22 15 USC 7001 to 7006, but does not modify, limit, or supersede  
23 section 101(c) of that act, 15 USC 7001, or authorize electronic  
24 delivery of any of the notices described in section 103(b) of that  
25 act, 15 USC 7003.

26 Sec. 403. Except as otherwise provided in this act, on the  
27 effective date of this act all of the following apply:

28 (a) Except as provided in subdivision (c), this act applies to  
29 a power of attorney created before, on, or after the effective date

1 of this act.

2 (b) This act applies to a judicial proceeding concerning a  
3 power of attorney commenced on or after the effective date of this  
4 act.

5 (c) This act applies to a judicial proceeding concerning a  
6 power of attorney commenced before the effective date of this act  
7 unless the court finds that application of a provision of this act  
8 would substantially interfere with the effective conduct of the  
9 judicial proceeding or prejudice the rights of a party, in which  
10 case that provision does not apply and the superseded law applies.

11 (d) An act done before the effective date of this act is not  
12 affected by this act.

13 Sec. 404. Sections 5501 to 5505 of the estates and protected  
14 individuals code, 1998 PA 386, MCL 700.5501 to 700.5505, are  
15 repealed.

16 Sec. 405. This act takes effect July 1, 2024.

17 Enacting section 1. This act does not take effect unless all  
18 of the following bills of the 102nd Legislature are enacted into  
19 law:

20 (a) House Bill No. 4645.

21 (b) House Bill No. 4646.